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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA

11 _____)
12 NATIONAL FAIR HOUSING ALLIANCE, et al.)
13)
14 Plaintiffs,)
15 vs.)
16 A.G. SPANOS CONSTRUCTION, INC., et al.)
17 Defendants.)
18 _____)

Case No. C-07-3255-SBA

**PLAINTIFFS' MOTION FOR
RELIEF FROM
REQUIREMENT THAT
ATTORNEYS SEEKING TO
APPEAR *PRO HAC VICE*
ASSOCIATE COUNSEL
HAVING AN OFFICE IN
STATE OF CALIFORNIA**

DATE: October 23, 2007

TIME: 1:00 p.m.

Room: Courtroom 3, Courtroom
of the Honorable Sandra Brown
Armstrong

19 **NOTICE OF MOTION**

20 Please take notice that on October 23, 2007, at 1:00 p.m., or as soon thereafter as
21 this matter may be heard, plaintiffs National Fair Housing Alliance Inc., Fair Housing of
22 Marin, Inc., Fair Housing Napa Valley, Inc., Metro Fair Housing Services, Inc. and Fair
23 Housing Continuum, Inc. ("Plaintiffs"), will move the Honorable Sandra Brown
24 Armstrong, United States District Judge for the Northern District of California, for
25 issuance of an order granting relief from the requirement that attorneys seeking to appear
26 *pro hac vice* associate with counsel having an office in the State of California.

27 There is good cause to grant this motion because one of Plaintiffs' counsel is a
28

1 member of the Bar of the Northern District of California, is a member of the State Bar of
 2 California, has appeared frequently in this District, and is familiar with its local rules.

3 This Motion is based on this Notice of Motion, the Memorandum of Points and
 4 Authorities, the Declaration of D. Scott Chang filed concurrently herewith, and the
 5 Proposed Order.

6 **MEMORANDUM OF POINTS AND AUTHORITIES**

7 **INTRODUCTION AND BACKGROUND**

8 This is a housing discrimination case brought by plaintiffs National Fair Housing
 9 Alliance, Inc., a nation-wide alliance of non-profit, fair housing organizations whose
 10 mission includes advocating for the rights of people with disabilities to accessible
 11 housing, and four of its fair housing member organizations, Fair Housing of Marin in San
 12 Rafael, California, Fair Housing of Napa Valley in Napa, California, Metro Fair Housing
 13 Services of Atlanta, Georgia, and The Fair Housing Continuum of Florida. Plaintiffs
 14 allege that Defendants, A.G. Spanos Construction Inc, a national builder of multifamily
 15 housing, and four affiliated companies violated the Fair Housing Act ("FHA"), 42 U.S.C.
 16 §§ 3601-19, by failing to design and construct apartment complexes located throughout
 17 the United States, so they are accessible to persons with disabilities.

18 Plaintiffs seek relief from the requirement under Civ. L.R. 11-3(a)(3) that
 19 attorneys seeking to appear *pro hac vice* associate co-counsel that have an office in the
 20 State of California.

21 **ARGUMENT**

22 Several of Plaintiffs' counsel seek admission *pro hac vice*. One of Plaintiffs'
 23 counsel is member of the bar of this District and actively litigates cases in the District.
 24 Plaintiffs request that the Court grant them relief from the requirement under the Civil
 25 Local Rules that attorneys seeking to appear *pro hac vice* associate with counsel having
 26 an office in the State of California.

27 Civil Local Rule 11-3 governs the procedure for admission of attorneys *pro hac*
 28 *vice*. Rule 11-3(a) provides in pertinent part:

(a) Application. An attorney who is not a member of the bar of this Court may apply to appear *pro hac vice* in a particular action in this district by filing an application on oath certifying the following:

...

(3) That an attorney, identified by name, who is a member of the bar of this Court in good standing and who maintains an office within the State of California, is designated as co-counsel.

Civ. L.R. 7-11(a)(3).

District courts within the Ninth Circuit have the ability to excuse strict compliance with local rules. *Allen v. U.S. Fidelity & Guaranty Co.*, 342 F.2d 951, 954 (9th Cir. 1965)(holding that district courts have the power to determine what “departures from statutory prescription or rules of court are so slight and unimportant that the sensible treatment is to overlook them”); *Vidia v. U.S. Bankruptcy Court*, 2006 WL 3734297, *5 (N.D. Cal. 2006).

There is good cause to excuse the requirement that Plaintiffs’ counsel seeking to appear *pro hac vice* associate with counsel who is a member of the bar of this District having an office in California. First, one of Plaintiff’s counsel, D. Scott Chang, is a member of the bar of this District in good standing, actively litigates cases in the District and is very familiar with the District’s Civil Local Rules. (Declaration of D. Scott Chang in Support of Plaintiffs’ Motion for Relief from Requirement that Local Counsel Have an Office in the State of California (“Chang Decl.”) ¶ 2). Mr. Chang has been plaintiffs’ counsel in 49 cases in the District and has been lead or co-lead counsel in the majority of those cases. (*Id.*). Second, Mr. Chang will be involved in the litigation of this case, will assume authority and responsibility for the conduct of this case, and will appear in court when instructed. (Chang Decl. ¶ 3). Third, Mr. Chang is a member of the State Bar of California, (Chang Decl. ¶ 4), and thus the Court will have the ability to refer him to the State Bar in the unlikely event that Plaintiffs’ counsel misbehave.

1
2 **CONCLUSION**

3 For the foregoing reasons, plaintiffs respectfully request that the Court grant their
4 motion for relief from the requirement that attorneys seeking to appear *pro hac vice*
5 associate with counsel who having an office in the State of California.

6 Respectfully submitted,

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